

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Civil File No.: _____

Randy Johnson and Kyle Johnson,

Plaintiffs,

vs.

**NOTICE OF REMOVAL TO
FEDERAL COURT**

Ear, Nose and Throat Specialty Care of
Minnesota, P.A., a Minnesota Corporation,

Defendant.

**TO: THE CLERK OF UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA;**

**PLAINTIFFS ABOVE-NAMED, AND THEIR ATTORNEY, JOSEPH M.
CROSBY, 952 GRAND AVENUE, ST. PAUL, MN 55105**

PLEASE TAKE NOTICE that Defendant, Ear Nose and Throat Specialty Care of Minnesota, P.A., a Minnesota corporation, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby removes to this Court the state-court action described in paragraph 1 below.

THE REMOVED CASE

1. The removed case is a civil action commenced by service of process upon Defendant Ear Nose and Throat Specialty Care of Minnesota, P.A., on April 30, 2014, with the caption of:

*Randy Johnson and Kyle Johnson, Plaintiffs v. Ear Nose and Throat
Specialty Care of Minnesota, P.A., a Minnesota Corporation,
Defendant.*

Service of process is therefore complete under Minn. R. Civ. P. 4.05. *See Lockhart v. CitiMortgage, Inc.*, 2011 WL 1790342, at *1-2 (D. Minn. May 10,

28 U.S.C. § 1332. Therefore, this is an action that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED

6. This state court action may be removed to this Court by Defendant Ear Nose and Throat Specialty Care of Minnesota, P.A., in accordance with the provisions of 28 U.S.C. § 1441 because (i) this action is a civil action pending within the jurisdiction of the United States District Court for the District of Minnesota; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.
7. The claims are for medical malpractice, and negligent informed consent. Plaintiffs claim that as a result of this alleged negligence, Randy Johnson has incurred “permanent, serious life-changing physical, psychological, emotion, [sic] medical, and economical damages” which include but are not limited to “permanent facial nerve paralysis, unnecessary surgery, loss of future income, pain, suffering, permanent scarring, and loss of enjoyment of life.” (Compl. ¶ 31). Plaintiffs also assert a loss of consortium claim. (Compl. ¶ 32). In their complaint, they contend that the amount of these damages will be in excess of \$50,000.00. (Compl. at p. 6). However, based upon plaintiffs’ assertion of both monetary damages for past and future expenses, as well as the breadth of the claimed non-monetary damages, defendant hereby asserts that the amount in controversy, based on information and belief, exceeds \$75,000.00, exclusive of interest and costs. Therefore, this Court

has jurisdiction under 28 U.S.C. § 1332, and removal is proper under 28 U.S.C. § 1446 (c)(2)(A).

FILING OF REMOVAL PAPERS

8. Pursuant to 28 U.S.C. § 1446(d), written notice of the removal of this action has been given simultaneously to Plaintiffs' counsel, and a Notice of Filing of Notice of Removal is simultaneously being filed with the District Court for the County of Ramsey, State of Minnesota. A true and correct copy of that Notice of Filing is attached hereto as Exhibit B.

9. If any question arises as to the propriety of the removal of this action, Ear Nose and Throat Specialty Care of Minnesota, P.A., requests the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removable.
10. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Ear Nose and Throat Specialty Care of Minnesota, P.A.'s right to assert any defense or affirmative matter, including without limitation, the defenses of 1) improper venue or 2) any other procedural or substantive defense available under state or federal law, all such rights and remedies being hereby expressly reserved.

WHEREFORE, Ear Nose and Throat Specialty Care of Minnesota, P.A., hereby respectfully removes this action from the Second Judicial District Court for the County of Ramsey, State of Minnesota, requests that further proceedings be conducted in this Court

as provided by law, and requests any further relief, general or specific, at law or equity, to which it may be justly entitled.

BASSFORD REMELE
A Professional Association

Date: May 14, 2014

By /s/ Sarah M. Hoffman
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